IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.9226 of 1997
DATED 25-1-2007

BETWEEN
Y.Muralidhar Rao

..
Petitioner

And

The Director of Technical Education,
B.R.K.R. Bhavan, Tank Bund Road, Hyd.
and 2 others.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.9226 OF 1997

ORDER:

In this writ petition, the action of the respondents in not paying the minimum pay scale, applicable to lecturers, to the petitioner pending regularization of his services as Lecturer in Computer Applications in Kamala Nehru Polytechnic for Women is questioned as arbitrary and illegal.

The petitioner, a post-graduate in Computer Applications from the University of Hyderabad in the year 1988, was appointed as a Lecturer on hourly basis from 9.12.1989. He worked as such till November, 1990. From 29.10.1990 he was appointed as a Lecturer on a consolidated pay of Rs.2,000/- per month which was further enhanced to Rs.2,500/- per month with effect from 1992. The 2nd respondent issued a notification inviting applications for various posts including that of a Lecturer in Computer Applications. The petitioner contends that he is fully qualified to hold the post of Lecturer in Computer Applications and that he was entitled to be regularized since he had been working for more than seven and half years. On the ground that the respondents were proceeding with the recruitment without taking steps to regularize his services, the petitioner filed W.P.No.16443 of 1993 which was disposed of by this Court by order dated 18.12.1996 directing the respondents to consider the case of the petitioner for regularization, if he possessed the requisite qualifications. Accordingly, the petitioner submitted a representation dated 9.1.1997 seeking regularization of his services.

The respondents issued proceedings dated 26.6.1997 informing the petitioner that he was not qualified and not eligible and that his services were being dispensed with. Questioning the proceedings

dated 26.6.1997, the petitioner filed W.P.No.13666 of 1997 which was disposed of by this Court on 30.9.1997 with a direction to the Commissioner of Technical Education to examine, whether the petitioner possessed the requisite qualifications within six weeks. With regard to the petitioner's continuance in service, this Court had observed that if he was in service he may be continued. According to the respondents, since the petitioner was not in service and had been relieved from service pursuant to the proceedings dated 26.6.1997 and as there were no interim directions during the pendency of W.P.No.13666 of 1997, the proceedings dated 26.6.1997 dispensing with his services came into force from that date and the petitioner was not in service since then. The respondents would contend that the present writ petition has become infructuous.

By this writ petition, the petitioner seeks regularization of his services as a Lecturer from the date of his initial appointment with all consequential benefits. Inasmuch as the petitioner's services were dispensed with, the petitioner was informed about the same vide proceedings dated 26.6.1997 and since the petitioner is no longer in service from 26.6.1997, the question of his now being regularized in service does not arise. It is also necessary to note that a Constitution Bench of the Supreme Court in

Secretary, State of Karnataka v. Uma Devi [1] held that a Mandamus could not be issued directing regularization of services of part time/daily wage employees in the absence of any statutory prescription in this regard.

The writ petition fails and is accordingly dismissed. No costs.

RAMESH RANGANATHAN,J

Dt: 25.1.2007
msv.

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[1] (2006) 4 SCC 1